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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,306	12/08/2000	Margaret A. Schwarz	9022.20	3192

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EXAMINER

EPPS FORD, JANET L

ART UNIT	PAPER NUMBER
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1633

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,306

Applicant(s)

SCHWARZ, MARGARET A.

Examiner

Janet L. Epps-Ford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-11,17-19,47 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-11,17-19,47 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The rejections of claims 1-2, 4, 6-12, 14, and 16-19 under 35 U.S.C. 112, first paragraph, for lack of written description and enablement, are withdrawn in response to Applicant's amendment to the claims filed 2/16/06.

Response to Amendment

2. The Declaration under 37 CFR 1.132 filed 2/16/06 is sufficient to overcome the rejection of claims 1-3, and 11-13 based upon 35 USC 102(e).

The following is a new ground of rejection:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 7-11, 17-19 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. (US 2003/0215421) and Salfeld et al. (US 6914128), in view of Stern et al. (US 5,641,867).

McDonald et al. teach the treatment of disease associated with chemokine expression as induced by secreted pro-inflammatory cytokines primarily as chemo-attractants and activators of specific leukocyte cell sub-types (see background of invention 1st paragraph). Some of these diseases include: ischemia, myocardial infarction, rheumatoid arthritis, and atherosclerosis. The reference describes a variety of

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compounds that can be used for the treatment of these diseases, among these are included antibodies targeting the non-chemokine cytokine receptor EMAP II (see pages 22-23, paragraphs [0246]-[251]).

5. Salfeld et al. teach the use of human antibodies that bind human IL-12 for the treatment of diseases. This reference teaches that IL-12 plays a role in the pathology of a variety of diseases involving immune and inflammatory elements. Some of these diseases include atherosclerosis, and cardiomyopathy. This reference also teaches that antibodies targeting IL-12 can be used in combination with other antibodies for the treatment of the diseases associated with IL-12 expression, among these includes antibodies targeting EMAP II.

Neither McDonald et al. nor Salfeld et al. teach antibodies that specifically bind to EMAP II of SEQ ID NO: 4, or wherein the antibody is administered with a pharmaceutically acceptable carrier.

Stern et al. discloses antibodies which specifically bind to EMAP II polypeptide as set forth in SEQ ID NO: 4, (see SEQ ID NO: 37). Stern et al. discloses the purified antibodies in a buffer (see col 13-14).

It would have been obvious to the ordinary skilled artisan, at the time of the instant invention, to modify the methods of McDonald et al. and Salfeld et al. to comprise the use of the antibody of Stern et al. One of ordinary skill in the art would have been motivated to make this modification since the compounds of Stern et al. are disclosed as useful for the same purpose as the compounds disclosed in McDonald et al. and Salfeld et al., namely for use as antibodies to EMAP II.

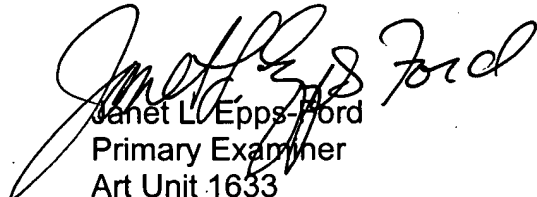
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Epps-Ford whose telephone number is 571-272-0757. The examiner can normally be reached on M-F, 9:30 AM through 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave T. Nguyen can be reached on 517-272-0731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.


Janet L. Epps-Ford
Primary Examiner
Art Unit 1633

JLE